



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of:

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

MOP/173599

PRELIMINARY RECITALS

Pursuant to a petition filed April 9, 2016, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Dane County Department of Human Services ["County"] in regard to Medical Assistance ["MA"], a Hearing was held via telephone from Madison, Wisconsin on May 5, 2016. The Hearing for this matter was held at the same time as the Hearing for the following closely related matter concerning the same petitioner: FOP-173598.

The issue for determination is whether the following 4 Claims can be established against petitioner for overpayments of MA in the total amount of \$8,670.75 spanning the time period June 1, 2012 to December 31, 2013:

- (I) Claim Number [REDACTED]; June 1, 2012 to December 31, 2012; \$2,306.70;
- (II) Claim Number [REDACTED]; January 1, 2013 to January 31, 2013; \$328.31;
- (III) Claim Number [REDACTED]; June 1, 2012 to December 31, 2012; \$2,434.72; and,
- (IV) Claim Number [REDACTED]; January 1, 2013 to December 31, 2013; \$3,601.02.

There appeared at that time via telephone the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

BY: [REDACTED] Overpayment Specialist
Dane County Department of Human Services
1819 Aberg Avenue
Suite D
Madison, WI 53704-6343

ADMINISTRATIVE LAW JUDGE:
 Sean P. Maloney
 Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Dane County, Wisconsin.
2. The County established the following 4 Claims against petitioner for overpayments of MA in the total amount of \$8,670.75 spanning the time period June 1, 2012 to December 31, 2013:
 - (I) Claim Number [REDACTED]; June 1, 2012 to December 31, 2012; \$2,306.70;
 - (II) Claim Number [REDACTED]; January 1, 2013 to January 31, 2013; \$328.31;
 - (III) Claim Number [REDACTED]; June 1, 2012 to December 31, 2012; \$2,434.72; and,
 - (IV) Claim Number [REDACTED]; January 1, 2013 to December 31, 2013; \$3,601.02.
3. Petitioner's household had earned income during the time period in question that was not reported; specifically, petitioner started employment at [REDACTED] in April 2012 but did not report that income to the County.
4. Petitioner was sent a letter notice dated March 12, 2012 and entitled *About Your Benefits*; that notice informed petitioner that she must report if her total monthly income goes over \$3,663; her employment at [REDACTED] put her over that amount and she did not report.
5. Petitioner was sent a second letter notice dated March 19, 2012 and also entitled *About Your Benefits*; that notice also informed petitioner that she must report if her total monthly income goes over \$3,663; her employment at [REDACTED] put her over that amount and she did not report.
6. The MA overpayments in *Findings of Fact* #2, above, resulted from the fact that the entire income of petitioner's household was not budgeted when calculating MA eligibility during the time periods in question due to income not being reported.

DISCUSSION

An overpayment of MA benefits may be recovered only in the following 3 circumstances:

- A. A misstatement or omission of fact by a person supplying information in an application for benefits;
- B. The failure of an MA or BadgerCare recipient or any other person responsible for giving information on the recipient's behalf to report the receipt of income or assets in an amount that would have affected the recipient's eligibility for benefits; or,
- C. The failure of an MA or BadgerCare recipient or any other person responsible for giving information on the recipient's behalf to report any change in the recipient's financial or nonfinancial situation or eligibility characteristics that would have affected the recipient's eligibility for benefits or the recipient's cost-sharing requirements.

Wis. Stat. § 49.497(1)(a) (2013-14); See also, *Medicaid Eligibility Handbook* ["MEH"] 22.2.1; BEM/DWS Operations Memo, No: 05-39, Date: 09/29/2005; and, BEM/DWS Operations Memo, No: 06-10, Date: 02/09/2006.

In this case petitioner failed to report income. This caused the MA overpayment listed in *Findings of Fact* #2, above. Therefore, petitioner is liable for the MA overpayments detailed in *Findings of Fact* #2, above, and must repay them.

Petitioner argues that she did report her income. She testified that she sent emails to her County worker reporting her income -- but she was not able to produce any of those e-mails. She testified that the e-mails were sent using both her personal e-mail and work e-mail and that she no longer has access to her work e-mail because she does not work there any longer. Petitioner's testimony is not credible. First, she does not explain why she cannot produce the e-mails that were sent using her personal e-mail. Second, it is clear that petitioner did not report her employment income on her June 21, 2012 *Access Six Month Report Form* ["SMRF"].

Petitioner testified that she did not know she had MA in 2013 because she did not pay the premium and assumed it had been cancelled. She testified that she paid medical bills out-of-pocket in 2013. However, MA eligibility for petitioner's children (although not for petitioner) continued in 2013 on an extension because petitioner failed to report her earned income in 2012 from [REDACTED].

Finally, petitioner states that in 2012 she provided a verification form to her employer to complete and return to the County. As noted above, however, the law provides that an MA overpayment may be recovered based on the failure of an MA recipient or any other person responsible for giving information on the recipient's behalf to report the receipt of income or assets in an amount that would have affected the recipient's eligibility for benefits. In this case it appears that petitioner's employer (in addition to petitioner herself) failed to report petitioner's income.

CONCLUSIONS OF LAW

For the reasons discussed above, petitioner is liable for the MA overpayments detailed in *Findings of Fact* #2, above, and must repay them.

NOW, THEREFORE, it is

ORDERED

That the petition for review herein be and the same is hereby DISMISSED.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN

INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,
Wisconsin, this 16th day of May, 2016

\sSean P. Maloney
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on May 16, 2016.

Dane County Department of Human Services
Public Assistance Collection Unit
Division of Health Care Access and Accountability